IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
WRIT PETITION NO.7471 OF 2006

Ramchandra Jyoti Patil .... Petitioner
Vs.
The Managing Director,
Kolhapur Zillha Sahakari Doodh
Utpadak Sangh Ltd., MIDC -
Gokul Shirgaon .... Respondent

Sarvasri S.B. Deshmukh with Tanaji Mhatugade
for the Petitioner.

CORAM: R.M.S. KHANDEPARKAR, J.
DATED: NOVEMBER 20, 2006

P.C:

The Labour Court, after considering the entire materials on record, has arrived at the clear finding that the petitioner had failed to establish that on account of sickness he could not attend to his duties. The findings arrived at by the Labour Court also disclose that during the tenure of his employment, he did not bother to obtain leave to remain absent and even in the course of the inquiry did not avail the opportunity to establish that he was sick during the relevant period and, therefore, could not attend to his duties. Absenteeism without leave itself is a misconduct sufficient to invite the order of dismissal from services. Here is a case where the petitioner in spite of being offered opportunity to establish his contention about sickness during the relevant period, failed to establish the same. It was sought to be contended on behalf of the petitioner that medical

certificate was actually produced and it was not disputed. The findings by the Labour Court clearly disclose that apart from placing the alleged certificate on record, no attempt was made by the petitioner to prove the contents thereof nor any doctor was examined. Question of disputing the contents of the alleged certificate by the respondent could have arisen if there was an attempt on the part of the petitioner to establish the same. Unless the petitioner makes an effort to establish the truthfulness of the contents of such document, there could be no opportunity to the respondent to dispute the contents thereof. Mere production of such private document in the form of the so called certificate on record does not establish the contents thereof, nor the truthfulness of the same. Both these things are to be established by examining the author of the written document. Admittedly, the petitioner has not established the same and, therefore, in the absence of any evidence regarding the sickness of the petitioner, the reference has been dismissed by the Labour Court. The findings being clearly borne out from the records, it does not warrant interference in writ jurisdiction under Article 227 of the Constitution of India. Hence the petition fails and is rejected.

(R.M.S. Khandeparkar, J.)

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